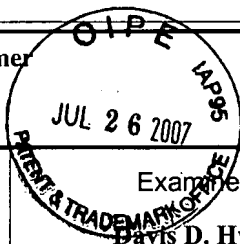


TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No.
33185-01

In Re Application Of: Douglas T. Hamer



Application No.

Filing Date

Examiner

Customer No.

Group Art Unit

Confirmation No.

10/725,786

December 1, 2003

Davis D. Hwu

46591

3752

3820

Invention: Novelty Beverage Straw

COMMISSIONER FOR PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

May 8, 2007

☒ Applicant claims small entity status. See 37 CFR 1.27

The fee for filing this Appeal Brief is: \$250.00

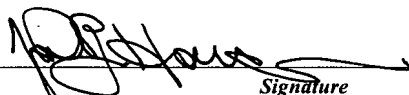
☐ A check in the amount of the fee is enclosed.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 08-0719 I have enclosed a duplicate copy of this sheet.

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Signature

Dated: July 24, 2007

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on
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Jacqueline Beavers

Typed or Printed Name of Person Mailing Correspondence

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD
OF PATENT APPEALS AND INTERFERENCES

Attorney Reference: 33185-001

In re Application of:
Douglas T. Hamer
Serial No.: 10/725786
Filed: December 1, 2003
For: Novelty Beverages Straw

Examiner: Davis D. Hwu
Group Art Unit: 3752
Appeal No.: Not yet assigned

BRIEF OF APPELLANTS

07/26/2007 SSITHIB1 00000070 080719 10725786

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INTRODUCTION

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is an appeal from the Final rejection of the Examiner dated February 15, 2007 rejecting claim 17 of the appellant's application Serial No. 10/725786. A Notice of Appeal was mailed May 8, 2007. The Brief is accompanied by the requisite fee set forth in §1.17(c).

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Respectfully submitted,

[Signature]

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Reg. No 26554

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Greenville SC 29603

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REAL PARTY IN INTEREST

The real parties in interest are SAB Enterprises, LLC, 114 Williams St., Greenville, SC 29601 and Douglas T. Hamer, the inventor and applicant of record.

RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, judicial proceedings or interferences known to the appellant which may be related to, directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claim 17 is the subject of this appeal. On February 15, 2007 the Examiner filed a Final rejection of Claim 17.

Claims 1 – 16 have been canceled.

The claim on appeal is affixed as the Claims Appendix.

STATUS OF AMENDMENTS

No amendments were filed subsequent to the Final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter defined by Claim 17 describes a commercially successful beverage dispenser (1) in the form of a straw (2) containing either a jellied drink, granata, or slush (7) and is designed specifically to contain the entirety of the beverage to be consumed without use of an auxiliary container. U.S. Patent Application No. 10/725,786 page 2, line 7 and page 3, line 3 (filed Dec. 1, 2003). The beverage may or may not contain beverage alcohol. '786 Application Page 2, Line 22. The intent of the invention is to enable two or more people to use the straw at the same time enabling a "game" by which two people can suck or pneumatically push the contents into, or away from, the mouth of the other person as shown in Figure 2 of the appellant's patent application. '786 Application Page 2, Line 9, and Page 3, Line 11-14.

The straw is formed from a straw body (1) having ends (3) and (4), each end is tightly sealed by removable caps (5), and (6) as shown in Figure 1. '786 Application Page 2, Lines 23, 24. The gelatin, granata, or slush 7, fills the center bore of the straw 1. '786 Application Figure 1, and Page 2, Line 3. The straw is constructed of suitable material and minimal thickness of 0.02 inches so as to maintain the rigidity of a cellulosic straw such that it does not collapse during use, but flexible and deformable sufficiently to knead the slush when the straw is removed from a freezer. '786 Application Page 3, Lines 6, 7.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claim 17 is unpatentable under 35 U.S.C. 103(a) over Benefiel et al. U.S. Patent 4,981,468 in view of Spangrud et al. U.S. Patent 5,045,195?

ARGUMENT

Claim 17 of the applicant's application stands rejected as being unpatentable under 35 U.S.C. §103(a) over Benefiel et al. U.S. Patent No. 4,981,468 in view of Spangrud et al. U.S. Patent No. 5,045,195. Claim 17 is patentable, however, because it describes a construction of a straw that 1) enables containment of the entire beverage that is to be consumed by the user, 2) is open end to end, 3) enables bi-directional beverage dispensing, and 4) specifies a structure of sufficient rigidity to enable the intended use without structural collapse, unlike Benefiel et al. in view of Spangrud. U.S. Patent No. 4,981,468 and U.S. Patent No. 5,045,195.

Applicant's Beverage Dispenser Contains the Entire Beverage

Claim 17 of the applicant's application is patentable because unlike Benefiel et al in view of Spangrud et al., Claim 17 defines a bidirectional beverage dispenser straw that contains

“a beverage selected from the group consisting of jellied drinks, granatas, slushes, and precursors thereof filling the hollow of said straw.”

‘786 Application Claim 17. Neither Benefiel et al. nor Spangrud et al. contain a beverage per se as asserted by the examiner. Benefiel et al. and Spangrud et al. utilize the straw as straws are normally utilized to withdraw a liquid from a container. ‘468 Patent and ‘195 Patent.

The apparatus described by Benefiel et al. contains a therapeutic agent in the form of granules or particles which do not constitute a beverage, but become an additive thereto. It is emphasized that the particles or granules of therapeutic agent do not constitute a beverage and particularly do not constitute a beverage “selected from the group consisting of jellied drinks, granatas, slushes, and precursors thereof” as specified in Claim 17. ‘786 Application Claim 17. Furthermore, appellant points out the therapeutic agent must be delivered to the patient combined with another liquid not contained within the straw. ‘468 Patent col.4, l.10-12.

The apparatus described by Spangrud et al. contains granular activated charcoal impregnated with silver, also located between layers of a fixed mechanical filter media. U.S. Patent No. 5,045,195 col.7 l.26-28 and col.8 l.14-16, 55-64. It is obvious that the granular activated charcoal impregnated with silver and located between layers of a fixed mechanical filter media does not constitute a beverage, and is specifically referred to as the “filter media” through which the beverage, if water is considered such, passes while being withdrawn from a separate container. ‘195 Patent col.4 l.15-30.

Examiner further argues “the types of beverages as recited would have been a matter of design choice.” Final Rejection page 2, lines 19-22 and page 3, lines 1-3 (filed Feb 15, 2007). Again neither reference cited by the Examiner, however, discloses a beverage contained within the straw, but utilizes the straw as straws are normally utilized to withdraw a liquid from a container. Applicant’s application recites specific beverages contained within the straw, and it is the burden of the Examiner to show such recitation of the structure would have been obvious to one of ordinary skill in the art at the time the invention was made. The Examiner has not satisfied their burden by a mere recitation of a design choice thinking that one of skill in the art would place either a therapeutic granules, particles, or filtration media with applicant’s specifically claimed beverages of “jellied drinks, granatas, slushes, and precursors thereof.”

Applicant’s Beverage Dispenser is Open End-To-End

Claim 17 of the applicant’s application is patentable because unlike Benefiel et al in view of Spangrud et al., Claim 17 defines a structure

“Said straw being substantially open from end to end.”

‘786 Application Claim 17. This unique feature of the applicant’s invention disclosed by Claim 17 enables the ends of the device to be used interchangeably, and more importantly enables the beverage contained within the device to be dispensed

“in either direction from said straw by application of positive pressure at one end of said two open ends and an application of negative pressure at the other of said two open ends.”

‘786 Application Claim 17.

Neither the Benefiel et al. patent nor the Spangrud et al. patent discloses a structure open end to end. In fact Benefiel et al. discloses a straw which possesses an internal blocking structure or grids thereby uni-directionally restraining the granules or particles of therapeutic agent 20 which. ‘468 Patent. Spangrud et al. discloses a water filtration device containing granular activated charcoal impregnated with silver, also located between layers of a fixed mechanical filter media that substantially obstructs the inner cavity of the straw. U.S. Patent No. 5,045,195 col.7 l.26-28 and col.8 l.14-16, 55-64.

Neither of the Examiner’s cited prior art, Benefiel et al. nor Spangrud et al., teach of a straw substantially open from end-to-end as specified by Claim 17.

Applicant’s Beverage Dispenser Enables Bi-Directional Beverage Dispensing

Claim 17 of the applicant’s application is patentable because unlike Benefiel et al in view of Spangrud et al., Claim 17 defines a beverage containing dispenser that dispenses

“in either direction from said straw by application of positive pressure at one end of said two open ends and an application of negative pressure at the other of said two open ends.”

‘786 Application Claim 17. Claim 17 further specifies a beverage dispensing container which is “substantially open from end to end” that has “two open ends” possessing removable end caps. ‘786 Application Claim 17.

Neither the granular therapeutic agent dispensing device specified by Benefiel et al. nor the filter specified by Spangrud et al. are suitable for dispensing their contents bi-directionally. The granules contained within the straw specified by the Benefiel reference are not dispensed in either direction but are dispensed utilizing only negative pressure, i.e., sucking by the patient being treated with the therapeutic particles or granules. ‘468 Patent col.4 l.12,22,29,37,et al. In addition to possessing a grid or mesh to allow only the flow of granular agents in one direction, Benefiel et al., in fact, teaches away from a bidirectional dispensing of its granular agent by further specifying the device as having an “inlet end” (114) and an “outlet end” (116). ‘468 Patent col.8, l.14, 19. Furthermore Benefiel et al. specifically calls for a “one-way valve such as a flap valve, a duck-bill valve or a ball-and-seat type arrangement” in its preferred embodiment. ‘468 Patent col.6 l.23-25. Bidirectional use defeats the purpose of the Benefiel et al. device. Spangrud et al. is a water filtering device. ‘195 Patent. Spangrud et al. does disclose that an application of pressure to the mouthpiece (20) will result in expelling the water from the filtering material for the purpose of drying the filter. ‘195 Patent col.5, l.48-51. It is clear, however, that such back flushing into the mouth of the user would produce the undesirable result of introducing concentrated contaminants previously trapped by the filter into the user’s mouths.

Neither of the Examiner’s prior art teach of a beverage dispenser that dispenses in either direction.

Applicant's Beverage Dispenser Possesses a Minimum Thickness of 0.020 Inches

Claim 17 of the applicant's application is patentable because unlike Benefiel et al in view of Spangrud et al., Claim 17 defines a beverage containing dispenser

“having sidewalls with a minimum thickness of 0.02 inches”

‘786 Application Claim 17. This thickness specification is significant in that it enables the beverage dispenser to resist collapse when two users simultaneously apply suction to either end. Any fair combinations of the teaching is not going to result in applicant's claimed subject matter of a straw

“being substantially open end to end”

and containing

“a beverage selected from the group consisting of jellied drinks, granatas, slushes, and precursors thereof.”

and which is capable of dispensing in either direction. ‘786 Application Claim 17.

Obviousness precludes issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter *as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. §103(a) (emphasis added). The Examiner notes that the claimed structural thickness limitation is not met by Benefiel et al., and combines, without explanation, a reference to Spangrud et al. which is directed to a water filtration device containing granular activated charcoal impregnated with silver, also located between layers of a fixed mechanical filter media. U.S. Patent No. 5,045,195 col.7 l.26-28 and col.8 l.14-16, 55-64.

It is submitted that if one were to fairly combine the teaching of Spangrud et al. with those of Benefiel et al., one would end up with a straw having both therapeutic granules or particulate, as well as a filtration medium in which would still be operable only in one direction. Applicant teaches of an apparatus that is open end to end and operable in two directions such that the beverage packaged within the apparatus is dispensed in either direction. '786 Application Claim 17.

Both references have only uni-directional capability and indeed Benefiel et al, the primary reference, specifically calls for a "one way valve such flap valve, such as a duck-bill valve or a ball-and-seat type arrangement" in its preferred embodiment. '468 Patent col.6 l.23-25. It is submitted that any modification of either of the references to arrive at applicant's "being substantially open from end to end" is a teaching away from applicant's bidirectional dispenser.

Conclusion

In summary, the Examiner has recited references which do not anticipate the claimed apparatus. The straws cited by the Examiner are not continuous end-to-end, do not possess sealed end caps on either end containing a beverage of "jellied drinks, granatas, slushes, and precursors thereof" to be dispensed in either direction and do not have walls with a minimum thickness of at least 0.020 inches. A rejection under 35 U.S.C. §103(a) based on references which do not teach the elements, form and function of the claimed apparatus is improper. Applicants respectfully traverse the rejection of claim 17.

CLAIMS APPENDIX

17. A beverage dispenser, comprising;

a semi-rigid hollow straw having two open ends, said straw having sidewalls with a minimum thickness of 0.02 inches and said straw being substantially open from end to end;

end caps on each of said two open ends;

a beverage selected from the group consisting of jellied drinks, granatas, slushes, and precursors thereof filling the hollow of said straw;

said end-caps being removable;

whereby said beverage is dispensed in either direction from said straw by application of positive pressure at one of said two open ends and application of negative pressure at the other of said two open ends.

EVIDENCE APPENDIX

Suck and Blow Website (7-9-2007)

Suck & Blow - The Next Generation of Shots - Microsoft Internet Explorer

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Address http://www.suckandblow.com/

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Why is it so much fun? Well, Suck and Blow is a gelatin shooter encased in a patented plastic tube and in order to enjoy this flirtatious shot, you'll need a partner.

That's right, it takes two to tango with this tasty treat. One person to "Suck" and another to "Blow". It is the interaction of two people that make it so popular.

Great fun for BARS, CLUBS, LARGE PARTIES, or any SOCIAL GATHERING where adults mix and mingle, Suck and Blow is the one shooter that will have your customers and guests coming back for more.

We now offer 'ready to drink' tubes! [Click here to find a distributor near you!](#)

Just Released! Suck & Blow 4 Packs

Check out the new Suck & Blow 4 packs in 4 great flavors - wild berry, orange, the bomb, and cherry! Ask for them at convenience stores, liquor stores, and bars.

Two Ways to Suck & Blow!

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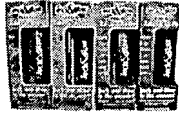
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Submit your best suck and blow banner here!

Great fun for BARS, CLUBS, LARGE PARTIES, or any SOCIAL GATHERING where adults mix and mingle, Suck and Blow is the one shooter that will have your customers and guests coming back for more.

We now offer 'ready to drink' tubes! [Click here to find a distributor near you!](#)

Just Suck and Blow 4 Packs



Check out the new Suck & Blow 4 packs in 4 great flavors - wild berry, orange, the bomb, and cherry! Ask for them at convenience stores, liquor stores, and bars and Night Clubs - anywhere that sells beer or wine!

The Just 1st

Just love your product. My girlfriend purchased 25 suck and blow tubes for my 52nd birthday party and they were the hit of the event. All of my friends were fighting over them and my 70 + year old parents couldn't resist and ended up doing 10 between them throughout the evening. Totally hysterical. We've taken them to other parties since and they are always the center of attention. Keep up the good work. You guys really suck, or blow, or something.

[TELL US YOUR STORY!](#)

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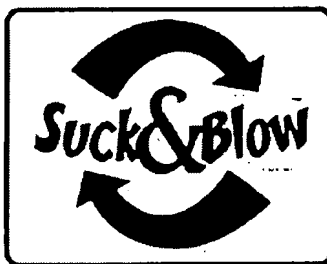
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Internet

Suck and Blow Website (8-2-2005)

B



What It Is...

How You Do It...

SHOP N

Welcome to Suck & Blow, the "Next Generation of Shots" that is sweeping the nation. This innovative new product can spice up any party or social event where adults gather to have a good time, but should always be used responsibly. Please, look around this site **ONLY** if you are 21 or older.

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Suck and blow?

Posted Monday, August 30, 2004 - 4:04 pm

By Clayton Kale
STAFF WRITER
ckale@upstatelink.com

Life must suck for Doug Hamer, Brian Higgins and Pano Stathakis, ever since they've begun promoting Hamer's invention. The entrepreneurs have gotten their product Suck and Blow into bars and nightclubs in 35 states by traveling to the establishments themselves and through business on their Web site.

They're already on sale at bars and clubs around the Upstate such as Gametime-Riptide. Usually, said Gametime-Riptide director of marketing Barbara LaFrance, "it's like a domino effect." People see others taking the shot and - what is it? Inspiration? Curiosity? - take a shot themselves.

"They're pretty awesome," LaFrance said, "they're bigger than your ordinary Jell-O shooter, let's put it that way."

At the end of this month, they're hoping to add a few more clubs that they sell to after attending a convention of club owners in Las Vegas.

"We were talking about it the other day. It's taken us to L.A., Las Vegas, all over Florida..." says Doug Hamer, who invented the Suck and Blow.

Two questions come immediately to mind. One: What is a Suck and Blow? And two: Why didn't I think of that?

Hamer helped us answer the first question. The second, well, we just lack vision.



Natalie Zatezala, left, and Jennie Shaw demonstrate proper use of a Suck and Blow, available in bars and clubs across the U.S. Staff/Matt Baldwin

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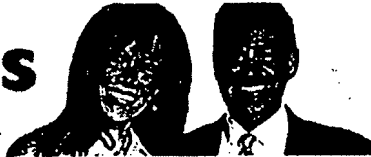
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Martini's future may be on the rocks with the arrival of Suck & Blow

Business Wire
Jul. 20, 2005 12:00 AM

GREENVILLE, S.C. - When Doug Hamer and Brian Higgins stumbled on the idea that they could pave their road to retirement with gelatin, or more correctly gelatin "shooters," the two thirty-somethings hit on a generational shift that replaces martinis with a social twist: interactive drinking.

The road to a possible nightlife phenomenon called Hamer out of the telecommunications world (he founded long-distance reseller Allsouth Communications) and Higgins out of information technology to create Suck & Blow, the first interactive beverage in the alcohol industry.

Suck & Blow are patented, six inch plastic tubes containing one-and-a-half ounces of flavored gelatin (13 percent alcohol, by volume). Safety-sealed caps on both ends of the tube require two mouths: one to blow out the gelatin and the other to suck it in. According to Hamer, "Suck & Blow gives hope to socializing singles who can use the need for a Suck & Blow partner to break the ice, rather than risk almost sure failure with those old, tired and just plain awful pick-up lines."

advertisement

Hamer and Higgins, who have known each other since high school, were attending a coastal water festival in 2001 where they noticed the consumption of tray-upon-tray of gelatin shots as well as the funnel method of downing beer. Inspiration (and a novel attempt to attract a certain someone) led Hamer to put a gelatin shot in the funnel tube and, after attracting the desired partner to lend a blow, the concept swept the festival and led Hamer and Higgins to seriously consider the realities of mass producing individual, tamper-proof and hygienic gelatin shots in a tube. In five months, the idea had the approval of the Food and Drug Administration and was on the shelves in liquor stores throughout South Carolina and Tennessee.



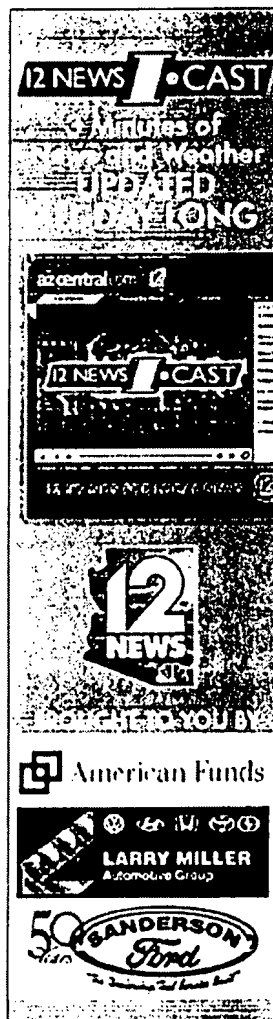
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Happy hour goes with the two-p shooter.

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With the dramatic increase in daily production, SAB is aggressively pursuing distributors in Florida, Georgia, California, Nevada, New Jersey, New York, Texas, Louisiana, Ohio, Illinois and other states. By year's end, SAB plans to be in 10 or more states.

According to Hamer, "Suck & Blow is a great ice breaker that brings people together. The interaction required by the product creates energy in bars and clubs when people get into it and it catches like wildfire."

And what about those people whose eyes first met from opposite ends of a Suck & Blow tube? Have there been any wedding bells as a result? Hamer won't name names, but he does admit to some pretty hot Suck & Blow stories being relayed to him via email. "Let's just say that there has been documented proof in our real-time, email and camera phone world, that Suck & Blow can make a successful introduction. What happens after that is between you and whoever's on the other end of the tube."

Today, Hamer and Higgins, through their company SAB Enterprises (www.suckandblow.com), have acquired the backing of several private investors and currently market Suck & Blow in 47 states, Canada, Japan and New Zealand. "Our goal is to make Suck & Blow the next Red Bull cult phenomenon," said Higgins. "Now that our distribution is progressing, we're working to brand the product with innovative visibility tactics, much like the ones deployed by Red Bull in their early days."

"We've looked at every single angle of any other product out there in comparison to Suck & Blow and there isn't anything that combines the interactive opportunity and excitement of our product, or the hygienic and safety criteria that our product offers," said Higgins. "There are some other smaller competitors out there in the field of gelatin shots or shooters, such as the oral syringe, but we think we've trumped them with the Suck & Blow concept."

The adult beverage trade press has been supportive of the Suck & Blow concept, especially during the annual Nightclub and Bar trade show the past two years in Las Vegas where they have been singled out as one of the industry's "hot products." Early trade support has been pivotal in building customer demand, so much so that SAB Enterprises has announced plans to increase production from 6,000 Suck & Blow tubes per day to 75,000 tubes per day, or 20 million pieces per year.

In addition to the increase in production, consumer demand has driven distribution of Suck & Blow into 47 states, Canada, Japan and New Zealand. Currently, SAB Enterprises is selling through distributors in South Carolina and Tennessee.

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Greenville News Printed Article (9-11-2005)

BUSINESS

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KEN OSBURN / Staff

Life's a party: Doug Hamer, at left, and Brian Higgins, partners in Greenville-based SAB Enterprises LLC, are in the midst of launching their gelatin-based shooter after two years of re-

search and development. They are presently distributing their product in four states and soon expect to have it in several other countries.

Fun with Jell-O

Greenville entrepreneurs have global ambitions for gelatin bar drink

By Woody White
BUSINESS EDITOR
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Doug Hamer was spending a July afternoon on Port Royal Sound near Beaufort in 2001 when he saw something that would grab hold and take control of his life.

The lifelong Greenvillean had tied his

20-foot Scout to other boats in what amounted to a 15-vessel party flotilla. He was having a grand time when he simultaneously spied a woman slurping a Jell-O shooter from a plastic cup and a guy doing the old frat-house rendition of "funneling" a beer from a long plastic tube.

"I immediately thought it would be really neat to put the two ideas togeth-

er," Hamer recalled.

So he got a knife, cut a beer funnel into an 8-inch piece and poured two Jell-O shooters into the tube. He put one end in his mouth, gave the other to a friend and told her to suck it down while he blew on his end.

Four years later, Hamer and Brian

See **JELL-O** on page 6

Week of September 11, 2005

JELL-O

FROM THE COVER

Higgins, his partner in SAB Enterprises LLC, are in the process of taking their product worldwide. What they have perfected and patented is a pre-mixed, gelatin-based bar drink they named "Suck & Blow" because it describes the way it works.

Still in the early stages of the rollout, Hamer and Higgins are presently selling their product in South Carolina, Tennessee, Massachusetts and Nevada, and expect to be distributing shortly in other states and internationally in Canada, Mexico and Asia.

After forming their business in July 2003, the two began selling empty tubes in March 2004 and only began distributing the pre-mixed version this past March. What they have seen so far has been promising, they said, with sales of the filled tubes topping 500,000 through August.

Hamer and Higgins are still operating their business on a shoestring and are taking out only enough money to live on. And they say they have learned how to scrimp and sacrifice for the good of a start-up company.

"I learned that you can actually go out there and buy used tires," Higgins said. "I didn't know you could, but when I didn't have money for new tires, I found out they sell used tires."

It helps that they have relatively few dependents. Higgins, 35, is a bachelor while the 36-year-old Hamer is divorced with one child.

Hamer said he has always been intrigued with inventions. While he has been dealt some bad hands in his life, they have brought out both the entrepreneurial spirit and a life-is-too-short attitude. Hamer's father died of suicide when he was 5 years old, and his mother died of an aneurysm when he

was 19.

Hamer's first job was delivering the old *Greenville Piedmont* in his neighborhood near Greenville Country Club when he was 11. He attended Christ Church School and graduated from Greenville High and the University of South Carolina. He learned from two of Greenville's best known entrepreneurs — Charlie Houser and Leighton Cabbage — as an employee of Corporate Telemanagement Group, a long distance company that was sold to LCI International in 1995.

Higgins, a graduate of Eastside High and Lander University, worked in sales for Greenville-based Datastream Systems before striking out on his own with a real estate appraisal business.

The two had known each other in high school and had later become good friends. Their relationship would change after that July afternoon on Port Royal Sound.

"We got on the phone on Sunday night after we got back and talked for hours, figuring we could take this idea and run with it. We could take it nationwide and worldwide. We just immediately had tremendous expectations," Hamer said.

Higgins said, "I knew this was it, the big idea and that we had to run with it. We knew it was going to be good."

But their earlier experiences had taught them it wouldn't be easy. Nor would it be a get-rich-quick scheme. It would take a couple of years of fine tuning and testing their idea before they would form a business and almost two years more until they would start selling "Suck & Blow" as a finished product.

First came the experiments with ingredients and the delivery system. They would buy tubing from Lowe's and mix their gelatin cocktail using Kraft's Extreme Jell-O, vodka and water.

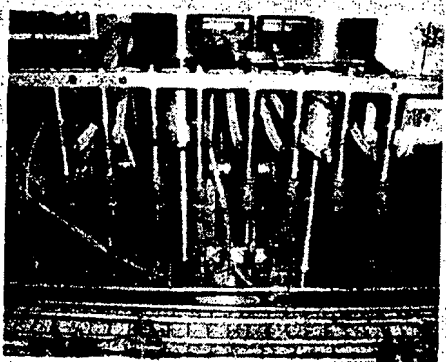
"We had to experiment to get the texture just exactly right," Hamer said. "Too much liquor makes it too runny."

They would make upwards of 250 tubes of the concoction and take it with them on trips to the beach, tailgating parties and the like.

After a Fourth of July party in 2003, they

STEP BY STEP

SAB Enterprises LLC uses two processes to get its gelatin-based shooter to market. Its tubes are manufactured in New Jersey by a company that can make 20 million of them a year. The tubes are then shipped to Florida for bottling and labeling. Since March, when the complete product became available, SAB has sold more than 500,000 in four states.



1 Right-hand tube-extruding machine



KEN OSBURN / Staff

Coming to a tavern near you: Greenville-based SAB Enterprises LLC's gelatin-based shooter is presently available at local establishments like Wild Wing Cafe. It is presently available in two flavors — Wild Berry and Cherry — and soon will come in Green Apple and Watermelon flavors as well.

decided it was time. "We had made and people went Higgins said. "We selling them."

To make the product a marketable product. First, they would the tubes. They would be approved Tobacco and Fire Trade Bureau, a distribution network.

And there was money. Neither much of that, and prove to be a tough seek out investors might want to co-financed SAB Enterprises and loans on their own credit.

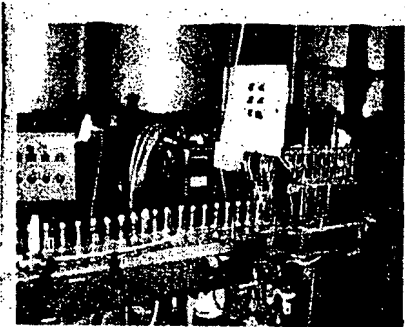
It was a model nights, many high kept them firmly.

For example, the Night Club & March 2004 and five booths around.

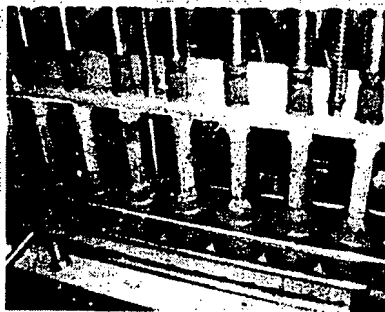
"We left that side. We knew we had the company on out to Las Vegas home, one of our of a commitment Hamer said.

Said Higgins, "top of the world test market with tomers, and the talking about his pany because we money to go for Hamer called Fla., who lent \$100,000."

"It's what kept In its present tions using two of Carlstadt, N.J., an 8-cavity injection machine.



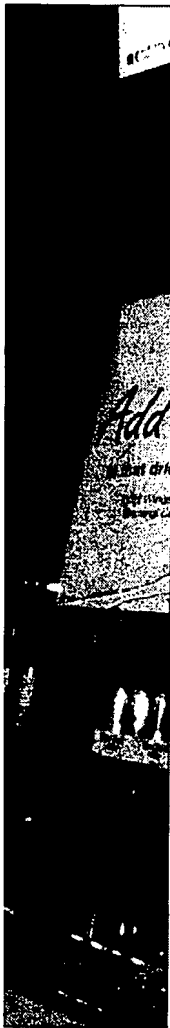
2 SAB's very first tubes on line to be filled



3 SAB's first eight filled tubes



4 Labeling the first batch Finished product



KEN OSBURN / Staff

hments like Wild
n flavors as well.

decided it was time to go into business.

"We had made 500 of them for the party, and people went straight through them," Higgins said. "We figured it was time to start selling them."

To make the leap from party curiosities to a marketable product took several steps. First, they would need a way to manufacture the tubes. They would also need a recipe that would be approved by the Bureau of Alcohol, Tobacco and Firearms and the Tobacco Trade Bureau, a bottling company and a distribution network.

And there was another crucial component: money. Neither Hamer nor Higgins had much of that, and they made what would prove to be a tough decision. Rather than seek out investors with deep pockets who might want to control their destiny, they financed SAB Enterprises on small investments and loans from friends and family and on their own credit cards.

It was a model that has led to sleepless nights, many highs and lows, but it has also kept them firmly in charge.

For example, they took "Suck & Blow" to the Night Club & Bar Show in Las Vegas in March 2004 and were voted one of the top five booths among 2,000 vendors.

"We left that show as high as we could be. We knew we had a hit. But we had floated the company on our credit cards just to get out to Las Vegas. Then when we got back home, one of our initial investors pulled out of a commitment and put us in a bind," Hamer said.

Said Higgins, "We had gone from being on top of the world. We had just come through a test market with over 5,000 potential customers, and the next thing we knew we were talking about having to shut down the company because we didn't have any more money to go forward."

Hamer called his uncle in Amelia Island, Fla., who lent SAB Enterprises \$25,000.

"It's what kept us afloat," he said.

In its present form, SAB Enterprises functions using two processes. Flex Products Inc. of Carlstadt, N.J., manufactures the tubes on an 8-cavity injection mold owned by SAB,

capable of producing 20 million tubes a year. Then the tubes are shipped to Cocoa, Fla., where Mango Bottling Inc. fills them with SAB's mixture of gelatin, alcohol and water.

There are presently two flavors — Wild Berry and Cherry, with plans under way for Green Apple and Watermelon. The alcohol is wine-based, 13 percent by volume, and the product is sold in a 50-milliliter polypropylene tube. It requires refrigeration before use and has a shelf life of one year.

"It's a distilled wine that tastes like liquor. We wanted to keep it under 14 percent alcohol by volume so it can be sold in convenience stores and grocery stores. It opens up more channels by making it a wine-based product," Hamer said.

Approval at the state level is a relatively simple process once federal approval is secured, Hamer said. The trick is getting distributors and bars interested in the product. In March, National Distributing Co. began selling "Suck & Blow" in South Carolina. A month later, four distributors — Athens Distributing, Knoxville Beverage, TN Wine & Spirits and South Western — began selling it in Tennessee. Merrimack Distributors has taken the product to Massachusetts and Southern Wine & Spirits in Nevada.

Locally, "Suck & Blow" is carried by many of the liquor and party stores and is sold at numerous bars, including Wild Wing Cafe in downtown Greenville.

"We like it because it goes along with our party atmosphere," said Josh Pair, a manager at Wild Wing. "Wild Wing has a menu that is based on sharing, and these things fit right in. Plus, they're good sellers. Once you see one go out, it's not long before another 10 go out."

In sum, Hamer said that the biggest key in taking a single idea and building a business around it from scratch is "how you respond to situations and not make the big mistake."

He said that he and Higgins have "made some small mistakes, but we have tried not to make the bigger mistakes. You have to analyze, to some extent, but as an entrepreneur you have to make quick decisions as well."



The first batch

Finished product



RELATED PROCEEDINGS APPENDIX

None.